

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Mulinelli (S)	Team: Squad #7	CCRB Case #: 201706153	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/19/2017 1:42 AM	Location of Incident: 1310 Sheridan Avenue	Precinct: 44	18 Mo. SOL 1/19/2019	EO SOL 1/19/2019	
Date/Time CV Reported Mon, 07/24/2017 6:11 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/28/2017 1:00 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Christophe Crain	01266	933719	044 PCT
2. POM Robert Cabrera	21253	959525	044 PCT
3. POM Luke Brennan	16890	957401	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Christophe Crain	Abuse: Sergeant Christopher Crain searched § 87(2)(b)	
B.SGT Christophe Crain	Abuse: Sergeant Christopher Crain searched § 87(2)(b)	
C.POM Robert Cabrera	Abuse: Police Officer Robert Cabrera searched § 87(2)(b)	
D.POM Robert Cabrera	Abuse: Police Officer Robert Cabrera searched § 87(2)(b)	
E.SGT Christophe Crain	Abuse: Sergeant Christopher Crain frisked § 87(2)(b)	
F.SGT Christophe Crain	Abuse: Sergeant Christopher Crain searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
G.POM Robert Cabrera	Abuse: Police Officer Robert Cabrera searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
H.POM Luke Brennan	Abuse: Police Officer Luke Brennan searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
I.SGT Christophe Crain	Off. Language: Sergeant Christopher Crain made comments to § 87(2)(b) based on his perceived mental disability.	
J.SGT Christophe Crain	Discourtesy: Sergeant Christopher Crain spoke discourteously to § 87(2)(b)	

### Case Summary

On July 24, 2017, § 87(2)(b) filed this complaint via phone with the Internal Affairs Bureau (IAB) on behalf of himself and his friend, § 87(2)(b). IAB forwarded this complaint to the CCRB via log number 17-28664 on July 28, 2017.

On July 19, 2017, at approximately 1:42 a.m., § 87(2)(b) was driving his Honda Accord with § 87(2)(b) as a passenger. § 87(2)(b)'s vehicle was stopped in the vicinity of 1310 Sheridan Avenue in the Bronx by Sgt. Christopher Crain, PO Robert Cabrera, and PO Luke Brennan of the 44<sup>th</sup> Precinct Anti-Crime Team. The officers reportedly ordered § 87(2)(b) and § 87(2)(b) to step out of the vehicle, at which point they were allegedly searched by Sgt. Crain and PO Cabrera (**Allegations A through D**). Sgt. Crain also allegedly frisked § 87(2)(b) (**Allegation E**). Sgt. Crain, PO Cabrera, and PO Brennan then allegedly searched § 87(2)(b)'s vehicle (**Allegations F, G, and H**). § 87(2)(b) questioned the officers' motives throughout the stop. Sgt. Crain stated that there was something "mentally off" with § 87(2)(b) (**Allegation I**) and referred to § 87(2)(b)'s car as a "hunk of shit" (**Allegation J**). § 87(2)(b) was released from the scene with VTL summonses for a missing front license plate and a dysfunctional center brake light.

The investigation received video footage, which was recorded by § 87(2)(b) from IAB [08, 10 Board Review].



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### Mediation, Civil and Criminal Histories

- § 87(2)(b) was offered the option to mediate this complaint, but since he was ultimately uncooperative with the CCRB, he never revealed a decision on the matter [see IAs].
- A Notice of Claim inquiry was filed with the Office of the New York City Comptroller on September 14, 2017. Its results will be added to the case file upon receipt [01 Board Review].
- § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c)  
[REDACTED]  
[REDACTED]  
[REDACTED]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint featuring § 87(2)(b) or § 87(2)(b) [03 Board Review].
- This is the first CCRB complaint filed against PO Cabrera during his one-year tenure.
- This is the first CCRB complaint filed against PO Brennan during his two-year tenure.
- In his 13-year tenure, 24 allegations stemming from nine cases have been made against Sgt. Crain. He has previously been the subject of vehicle search allegations in cases 200709944 and 200804389. Those allegations were closed as unsubstantiated and exonerated, respectively. Sgt. Crain was the subject of an offensive language allegation, which was closed as unsubstantiated, in case 200709944. A physical force allegation was

substantiated against Sgt. Crain in case 201605621, and charges were recommended. An NYPD disposition had not been rendered at the time of this report.

### **Potential Issues**

- § 87(2)(b) missed one appointment without prior notice of cancellation, and he was not responsive to follow-up contact attempts. § 87(2)(b) refused to provide any contact information for § 87(2)(b) [see IAs]. Database searches did not produce an address or a working phone number for § 87(2)(b) [04 Board Review]. Due to these issues, the investigation did not obtain a sworn statement from either victim.
- The investigation identified PO Cabrera and PO Brennan as being present throughout the incident, though they were not interviewed by the CCRB because, absent sworn testimony from a civilian, the investigation was only able to evaluate those allegations of clear and actionable misconduct captured on the video footage, which did not pertain to their involvement.

### **Findings and Recommendations**

#### **Allegations not pleaded**

- **Abuse of Authority: Vehicle Stop:** § 87(2)(b) was stopped and issued summonses for a missing front license plate and a dysfunctional center brake light [05 Board Review]. Therefore, his complaint of a vehicle stop amounts to a summons dispute, and the allegation was not pleaded.

**Allegation A – Abuse of Authority: Sergeant Christopher Crain searched** § 87(2)(b)

**Allegation B– Abuse of Authority: Sergeant Christopher Crain searched** § 87(2)(b)

**Allegation C – Abuse of Authority: Police Officer Robert Cabrera searched** § 87(2)(b)

**Allegation D – Abuse of Authority: Police Officer Robert Cabrera searched** § 87(2)(b)

**Allegation E – Abuse of Authority: Sergeant Christopher Crain frisked** § 87(2)(b)

**Allegation F – Abuse of Authority: Sergeant Christopher Crain searched the vehicle in which** § 87(2)(b) **and** § 87(2)(b) **were occupants.**

**Allegation G – Abuse of Authority: Police Officer Robert Cabrera searched the vehicle in which** § 87(2)(b) **and** § 87(2)(b) **were occupants.**

**Allegation H – Abuse of Authority: Police Officer Luke Brennan searched the vehicle in which** § 87(2)(b) **and** § 87(2)(b) **were occupants.**

In his complaint to IAB, § 87(2)(b) alleged that he and § 87(2)(b) were ordered to exit his vehicle, after which they were each searched by Sgt. Crain and PO Cabrera. Further, § 87(2)(b) alleged that Sgt. Crain frisked him. All three officers then searched § 87(2)(b)'s vehicle [06 Board Review].

Sgt. Crain stated that he smelled the odor of marijuana upon approaching § 87(2)(b)'s car, and § 87(2)(b) explained that he had smoked marijuana earlier that day. He found no other reason to believe there to be contraband in the vehicle, and he did not find § 87(2)(b) to be impaired at the time of the incident. Sgt. Crain stated that no officer searched or frisked § 87(2)(b) or § 87(2)(b). Sgt. Crain also denied that he or any other officer entered or searched § 87(2)(b)'s car [07 Board Review].

§ 87(2)(b) was uncooperative with the investigation and § 87(2)(b) was unavailable. As such, the investigation only received information about the allegations through § 87(2)(b)'s initial statement to IAB, two brief phone statements with the CCRB, and the provided video footage. The video footage did not capture any of the above allegations. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation I – Offensive Language: Sergeant Christopher Crain made comments to Eric § 87(2)(b) based on his perceived mental disability.**

Video footage captured a conversation between § 87(2)(b) and Sgt. Crain in which Sgt. Crain states, “I feel like something’s mentally off with you.” § 87(2)(b) responds that something is mentally off with the officers because they cited different reasons for the stop. Following a brief discussion concerning the summonses, § 87(2)(b) states that he has been stopped for no reason. Sgt. Crain then states to an unknown party, “Wow, there’s really something wrong with this guy.” He then reminds § 87(2)(b) that he had just cited four reasons for the stop [08 Board Review].



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§ 87(2)(b) made no mention of the above-described statements when he reported this incident to IAB. Similarly, he did not allege this comment when contacted via phone by the undersigned investigator [06 Board Review].

In his CCRB statement, Sgt. Crain acknowledged that he repeated his explanation of the reasons for the stop several times. Nothing suggested to him that § 87(2)(b) failed to understand these explanations. Sgt. Crain did not remember commenting that he thought there to be something “mentally off” with § 87(2)(b). He did not remember making any comments regarding § 87(2)(b)'s mental capacity.

After reviewing the video during his CCRB statement, Sgt. Crain recalled making the statements and stated that they were in reference to the number of times he informed § 87(2)(b) of the reasons for the stop. By “mentally off,” he meant that § 87(2)(b) did not understand his explanations. Sgt. Crain also asserted that he directed these comments toward PO Cabrera, who was standing near him, rather than to § 87(2)(b) [07 Board Review].

It is undisputed that Sgt. Crain made multiple statements about § 87(2)(b)'s mental state. However, Sgt. Crain's asserted that he made these statements to his partner rather than to § 87(2)(b) and that he was addressing § 87(2)(b)'s inability to understand an explanation rather than insulting his mental capacity. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation J – Discourtesy: Sergeant Christopher Crain spoke discourteously to § 87(2)(b)**

Following the conversation outlined above, Sgt. Crain was captured on video advising § 87(2)(b) that he had insufficient air pressure in his tires. He went on to cite this as a safety hazard and then suggested to § 87(2)(b) that he “get this hunk of shit serviced” [08 Board Review].



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§ 87(2)(b) made no mention of this statement when he reported this incident to IAB or during two brief conversations with the CCRB [06 Board Review].

In his initial statement, Sgt. Crain denied having any memory of an issue concerning § 87(2)(b)'s tires. He also denied recalling whether he called § 87(2)(b)'s car a “hunk of shit.” However, upon reviewing the video, Sgt. Crain acknowledged that he was the officer speaking with § 87(2)(b) at the driver’s window, and that he did, in fact, refer to § 87(2)(b)'s car as a “hunk of shit.” He clarified that § 87(2)(b) had referred to his own vehicle as a “piece of shit” earlier in the conversation, and. Sgt. Crain asserted that he was merely paraphrasing a statement already made by § 87(2)(b) [07 Board Review].

Patrol Guide procedure 203-09 requires that officers be courteous and professional during interactions with the public [09 Board Review].

It is undisputed that Sgt. Crain spoke discourteously toward § 87(2)(b) when he referred to § 87(2)(b)'s vehicle as a “hunk of shit.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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Squad: 7

Investigator:	_____	Jeffrey Mulinelli	_____
	Signature	Print	Date
Squad Leader:	_____	Diana Townsend	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

